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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A-580-816]

Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea:
Preliminary Results of the 18th Antidumping Duty Administrative Review, and Partial Rescission

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: In response to timely requests, the Department of Commerce (the Department) is conducting the 18th administrative review of the antidumping order on corrosion-resistant carbon steel flat products (CORE) from the Republic of Korea¹ (Korea). This review covers seven manufacturers and/or exporters (collectively, the respondents) of the subject merchandise: Dongbu Steel Co., Ltd., (Dongbu), Dongkuk Industries Co., Ltd. (Dongkuk), Haewon MSC Co. Ltd. (Haewon), Hyundai HYSCO (HYSCO), LG Chem., Ltd. (LG Chem), LG Hausys, Ltd. (Hausys), and Union Steel Manufacturing Co., Ltd. (Union).² The period of review (POR) is August 1, 2010, through July 31, 2011. We preliminarily determine that Dongbu and HYSCO have not made sales of subject merchandise at less than normal value (NV).

If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Additionally, we are rescinding this

¹ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part, 76 FR 61076 (October 3, 2011) (Initiation Notice).

² The Department also initiated a review of Pohang Iron & Steel Co., Ltd. (POSCO) and Pohang Coated Steel Co., Ltd. (POCOS) (collectively, POSCO), in the Initiation Notice. However, POSCO was revoked from the order on March 12, 2012. See Certain Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Notice of Final Results of the 2009-2010 Administrative Review and Revocation, in Part, 77 FR 14501 (March 12, 2012) (CORE 17 Final Results).

review with respect to POSCO because this company has been revoked from the antidumping duty order.³

EFFECTIVE DATE: [Insert date of publication in the Federal Register]

FOR FURTHER INFORMATION CONTACT: Cindy Robinson (Dongbu) or Christopher Hargett (HYSCO), AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3797, and (202) 482-4161, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 1993, the Department published the antidumping duty order on CORE from Korea.⁴ On August 2, 2010, we published in the Federal Register the Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 76 FR 45773 (August 1, 2011). On August 31, 2010, respondents and petitioners⁵ requested a review of Dongbu, Dongkuk, Haewon, Hausys, HYSCO, LG Chem, POSCO, and Union. The Department initiated a review of each of the companies for which a review was requested.⁶

Selection of Respondents for Individual Examination

³ Id.

⁴ See Antidumping Duty Orders on Certain Cold-Rolled Carbon Steel Flat Products and Certain Corrosion-Resistant Carbon Steel Flat Products from Korea, 58 FR 44159 (August 19, 1993) (Orders on Certain Steel from Korea).

⁵ Petitioners are the United States Steel Corporation (U.S. Steel), Nucor Corporation (Nucor), and ArcelorMittal USA LLC (ArcelorMittal USA).

⁶ See Initiation Notice.

On October 6, 2011, the Department placed on the record and distributed to all interested parties under administrative protective order a memorandum stating that we intend to limit the number of companies individually examined during this review and attaching proprietary data to be used for selection of companies for individual examination in this administrative review.⁷ Due to the large number of companies in this administrative review and the resulting administrative burden of examining each company for which a request was made, the Department determined that it would not be practicable to examine individually all eight producers/exporters of subject merchandise for which a review had been initiated.⁸ After careful consideration of our resources, we determined to review a reasonable number of respondents which account for the largest volume of subject merchandise exported from Korea in accordance with section 777A(c)(2) of the Act.⁹ On October 26, 2011, the Department selected Dongbu and HYSCO as mandatory respondents in this review.¹⁰

During the most recently completed segments of the proceeding in which HYSCO and Dongbu participated,¹¹ the Department disregarded sales below the cost of production (COP) for each of these companies. Therefore, pursuant to section 773(b)(2)(A)(ii) of the Tariff Act of 1930, as amended (the Act), we had reasonable grounds to believe or suspect that sales by these

⁷ See Memorandum to the File, “Customs and Border Patrol Data for Selection of Respondents for Individual Review” (October 6, 2011).

⁸ Id.

⁹ See Memorandum to Melissa Skinner, Director, Office 3, AD/CVD Operations, through James Terpstra, Program Manager, Office 3, AD/CVD Operations, FROM: Christopher Hargett, Senior International Trade Compliance Analyst, Office 3, AD/CVD Operations, titled “Selection of Respondents for Individual Review” (October 26, 2011) (Respondent Selection Memo).

¹⁰ See Memorandum from Christopher Hargett, Sr. International Trade Compliance Analyst, through James Terpstra, Program Manager, to Melissa Skinner, Director, Office 3, entitled “18th Antidumping Duty Administrative Review of Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Selection of Respondents for Individual Review,” dated October 26, 2010 (Respondent Selection Memo).

¹¹ See Certain Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Notice of Final Results of the Sixteenth Administrative Review, 76 FR 17381 (March 29, 2011).

companies of the foreign like product under consideration for the determination of NV in this review were made at prices below the COP. We instructed HYSCO and Dongbu to respond to sections A through D of the initial questionnaire,¹² which we issued on October 26, 2011.

From December 2011 through August 2012, Dongbu and HYSCO submitted timely responses to the Department's questionnaires.¹³

Union

On October 28 and November 22, 2011, Union submitted requests to be considered a mandatory respondent by the Department.¹⁴ On January 3, 2012, Union submitted its section A response to the Department's initial questionnaire. On January 20, 2012, Union submitted its sections B through D response to the Department's initial questionnaire. On April 10, 2012, Union met with the Department to reiterate its request that it be selected as a respondent in the instant case.¹⁵ Pursuant to the reasons stated in the Respondent Selection Memo, the Department maintains its decision to select and individually review only two mandatory respondents in the instant review, Dongbu and HYSCO.

Although Union was not selected as a mandatory respondent, it submitted a voluntary response and has requested to be treated as a voluntary respondent.¹⁶ As provided in section

¹² Section A: Organization, Accounting Practices, Markets and Merchandise; Section B: Comparison Market Sales; Section C: Sales to the United States; Section D: Cost of Production and Constructed Value; Section E: Further Manufacturing.

¹³ On August 13, 2012, Dongbu submitted a response to the Department's second section D supplemental questionnaire issued on August 3, 2012, but Dongbu inadvertently omitted narrative pages in this submission. Following the Department's instructions, Dongbu resubmitted a complete response on August 14, 2012.

¹⁴ See Letter from Union to the Department requesting to be a third mandatory respondent, dated October 28, 2011; see also Letter from Union to the Department requesting to be a third mandatory respondent, dated November 22, 2011.

¹⁵ See Memo to the File, "Ex Parte Meeting with Counsel for Union Steel," dated April 23, 2012.

¹⁶ See Letter from Union to the Department requesting to be a voluntary respondent, dated October 28, 2011; see also Letters from Union requesting to be a third mandatory respondent, dated October 28, 2011 and November 22, 2011

782(a) of the Act, and consistent with our findings in Frozen Shrimp,¹⁷ we separately addressed the issue of whether we can examine voluntary respondents, considering the available resources in light of the current workload, including the work involved in examining the two mandatory respondents, to determine whether examining voluntary respondents would be unduly burdensome or inhibit timely completion of the review.¹⁸ For the reasons discussed in the Union Voluntary Respondent Memo, we determined that given the existing resources and the complexity of this case, examining Union as a voluntary respondent would be unduly burdensome and inhibit the timely completion of this administrative review.¹⁹ Thus we are not examining Union as a voluntary respondent.

On October 28, 2011, POSCO submitted its request to be considered a voluntary respondent by the Department, but it withdrew its request to participate as a voluntary respondent for this administrative review on November 10, 2011. As mentioned, supra, POSCO was revoked from the CORE Order in the CORE 17 Final Results, thus, we are rescinding this review with respect to POSCO.

Period of Review

The POR covered by this review is August 1, 2010, through July 31, 2011.

Scope of the Order

(both requesting in the alternative to be considered a voluntary respondent).

¹⁷ See Certain Frozen Warmwater Shrimp From Thailand: Preliminary Results of Antidumping Duty Administrative Review and Preliminary No Shipment Determination, 77 FR 13082, 13085 (March 5, 2012) (Frozen Shrimp).

¹⁸ See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, from Melissa Skinner, Office Director AD/CVD Operations, Office 3, entitled “The 18th Antidumping Duty Administrative Review of Certain Corrosion-Resistant Carbon Steel Flat Products (CORE) from the Republic of Korea: Union Steel’s Request to be Examined as a Voluntary Respondent,” dated August 30, 2012 (Union’s Voluntary Respondent Memorandum).

¹⁹ Id.

This order covers flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090. Included in the order are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process including products which have been beveled or rounded at the edges (i.e., products which have been "worked after rolling"). Excluded from this order are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin-free steel"), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from this order are clad products in straight lengths of 0.1875

inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from this order are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio.

These HTSUS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

Rates for Respondents Not Selected for Individual Examination

Generally, we have looked to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents not selected for individual examination. Section 735(c)(5)(A) of the Act instructs that we do not calculate an all-others rate using any zero or de minimis weighted-average dumping margins or any weighted-average dumping margins based on total facts available. Accordingly, the Department's usual practice has been to average the rates for the selected companies excluding rates that are zero, de minimis, or based entirely on facts available.²⁰ Section 735(c)(5)(B) of the Act also provides that, where all rates are zero, de minimis, or based on total facts available, we may use "any reasonable method" for assigning the rate to non-selected respondents. One method that section 735(c)(5)(B) of the Act contemplates as a possible method is "averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated."

²⁰ See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part, 73 FR 52823, 52824 (September 11, 2008) (AFBs 2008), and accompanying Issues and Decision Memorandum at Comment 16.

In this review, we have calculated weighted-average dumping margins of zero or de minimis for both companies selected as mandatory respondents. In previous cases, the Department has determined that a “reasonable method” to use when, as here, the rates of the respondents selected for individual examination are zero or de minimis is to apply to those companies not selected for individual examination the average of the most recently determined rates that are not zero, de minimis, or based entirely on facts available (which may be from a prior review or new shipper review).²¹ If any such non-selected company had its own calculated rate that is contemporaneous with or more recent than such prior determined rates, however, the Department has applied such individual rate to the non-selected company in the review in question, including when that rate is zero or de minimis.²² However, all prior rates for this proceeding were calculated using the Department’s zeroing methodology. The Department has stated that it will not use its zeroing methodology in administrative reviews with preliminary determinations issued after April 16, 2012.²³ Therefore, we will not apply any rates calculated in prior reviews to the non-selected companies in these reviews. Based on this, and in accordance with the statute and the Department’s recent practice in AFBs 2012,²⁴ we determine that a reasonable method for determining the weighted-average dumping margins for the non-selected respondents in this review is to average the weighted-average dumping margins calculated for the mandatory respondents.

²¹ See AFBs 2008, and accompanying Issues and Decision Memorandum at Comment 16.

²² Id.

²³ See Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012) (Final Modification for Reviews).

²⁴ See Ball Bearings and Parts Thereof From France, Germany, and Italy: Preliminary Results of Antidumping Duty Administrative Reviews and Rescission of Antidumping Duty Administrative Reviews in Part, 77 FR 33159 (June 5, 2012) (AFBs 2012).

Targeted Dumping Allegations

On May 8 and 24, 2012, petitioners submitted targeted dumping allegations with regard to HYSCO and Dongbu, respectively.

The petitioners note that they conducted their own targeted dumping analyses of Dongbu's and HYSCO's U.S. sales using the Department's targeted dumping methodology as applied in Steel Nails and modified in Wood Flooring.²⁵ Based on the petitioners' own analysis, the petitioners argue that the Department should conduct a targeted dumping analysis and employ average-to-transaction comparisons without offsets, should the Department find that the record supports its allegation of targeted dumping.

On August 7, 2012, Dongbu submitted its response to petitioners' May 24, 2012, targeted dumping allegation submitted with regard to Dongbu. Dongbu argued that there is no statutory authority for applying the targeted dumping exception provided in section 777A(d)(1)(B) of the Act to this administrative review. Moreover, Dongbu claimed that a decision to apply the average-to-transaction methodology with zeroing in this review would completely undermine the recent change to the Department's zeroing practice in reviews that was announced in the Final Modification for Reviews. Accordingly, Dongbu requested that the Department reject petitioners' targeted dumping allegation and instead apply its new monthly average-to-average

²⁵ See The petitioners' Allegation of Targeted Dumping with respect to Dongbu, dated May 24, 2012, at 3, 5 – 7, and (citing Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 33,977 (June 16, 2008) (Steel Nails), and accompanying Issues and Decision Memorandum at Comment 8; Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (Oct. 18, 2011) (Wood Flooring), and accompanying Issues and Decision Memorandum at Comment 4); The petitioners' Allegation of Targeted Dumping with respect to HYSCO, dated May 8, 2012, at 3, 5 – 6 (same).

comparison methodology without zeroing the negative comparison results in these preliminary results.

HYSCO did not comment on the targeted dumping allegation submitted by the petitioners.

For purposes of these preliminary results, the Department did not conduct a targeted dumping analysis. In calculating the preliminary weighted-average dumping margin, the Department applied the calculation methodology adopted in the Final Modification for Reviews.²⁶ In particular, the Department compared monthly, weighted-average U.S. prices with monthly, weighted-average normal values, and granted offsets for negative comparison results in the calculation of the weighted-average dumping margins.²⁷ Application of this methodology in these preliminary results affords parties an opportunity to meaningfully comment on the Department's implementation of this recently adopted methodology in the context of this administrative review. The Department intends to continue to consider, pursuant to 19 CFR 351.414(c), whether another method is appropriate in this administrative review in light of the parties' pre-preliminary comments and any comments on the issue that parties may include in their case and rebuttal briefs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all CORE products produced by the respondents, meeting the description of the scope of the order, and sold in the home market during the POR to be foreign like products. As the basis for NV, we first identified home market sales in the ordinary course of trade of foreign like product which was identical to

²⁶ See Final Modification for Reviews.

²⁷ See id. at 8102.

the subject merchandise sold in the United States. Where there were no sales in the ordinary course of trade of identical merchandise in the home market to compare to U.S. sales, we identified home market sales of the most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's antidumping questionnaire.

Fair Value Comparisons

To determine whether sales of CORE by the respondents to the United States were made at prices less than NV, we compared U.S. prices, based either on the export price (EP) or the constructed export price (CEP), to the NV, as described in the "Export Price/Constructed Export Price" and "Normal Value" sections of this notice. In particular, the Department compared monthly, weighted-average EPs or CEPs with monthly, weighted-average normal values, and granted offsets for negative comparison results in the calculation of the weighted-average dumping margin for each respondent.²⁸

Export Price/Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP, in accordance with sections 772(a) and (b) of the Act. We calculated EP when the merchandise was sold by the producer or exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and when CEP was not otherwise warranted based on the facts on the record. We calculated CEP for those sales where a person in the United States, affiliated with the foreign exporter or acting for the account of the exporter, made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. We based EP and CEP on

²⁸ See Final Modification for Reviews.

the packed prices and the applicable delivery terms to the first unaffiliated customer in, or for exportation to, the United States.

For U.S. prices based on EP, we made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight to the port, foreign brokerage, international freight, marine insurance, U.S. inland freight from the port to warehouse, U.S. warehouse expenses, U.S. inland freight from the warehouse to the unaffiliated customer, U.S. brokerage and handling expenses, and U.S. customs duty.

In accordance with section 772(b) of the Act, we calculated CEP where the record established that sales made by HYSCO and Dongbu were made in the United States after importation. HYSCO's and Dongbu's respective affiliates in the United States (1) took title to the subject merchandise and (2) invoiced and received payment from the unaffiliated U.S. customers for their sales of the subject merchandise to those U.S. customers.²⁹ Thus, where appropriate, the Department determined that U.S. prices for these sales should be based on the CEP under section 772(b) of the Act. Where appropriate, we made deductions from the starting price for foreign inland freight to the port, foreign brokerage, international freight, marine insurance, U.S. inland freight from the port to warehouse, U.S. warehouse expenses, U.S. inland freight from the warehouse to the unaffiliated customer, U.S. brokerage and handling expenses, U.S. customs duty, credit expenses, warranty expenses, commissions, inventory carrying costs incurred in the United States, and other indirect selling expenses in the United States associated

²⁹ See Letter from HYSCO to the Department entitled "Eighteenth Administrative Review of Corrosion-Resistant Carbon Steel Flat Products from Korea: Section A Questionnaire Response," dated December 20, 2011, at pages A1 – A3, (HYSCO QRA) at A – 23; see also Letter from Dongbu to the Department entitled "Corrosion-Resistant Carbon Steel Flat Products from Korea: Administrative Review (8/1/10 – 7/31/11)," dated December 30, 2011, at pages A10 and A-23 (Dongbu QRA).

with economic activity in the United States.³⁰ Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. Where appropriate, we added interest revenue to the gross unit price.

HYSCO's Entries of Subject Merchandise that were Further Manufactured and Sold as Non-Subject Merchandise in the United States

In its section A questionnaire response, HYSCO requested that the Department excuse it from reporting information for certain POR sales of subject merchandise imported by its wholly owned U.S. subsidiary, HYSCO America Company (HAC), that were further manufactured after importation and sold as non-subject merchandise in the United States, claiming that determining CEP for sales through HAC would be unreasonably burdensome.³¹

Section 772(e) of the Act provides that when the value added in the United States by an affiliated party is likely to exceed substantially the value of the subject merchandise, the Department shall use one of the following prices to determine CEP if there is a sufficient quantity of sales to provide a reasonable basis of comparison and the use of such sales is appropriate: (1) the price of identical subject merchandise sold by the exporter or producer to an unaffiliated person; or (2) the price of other subject merchandise sold by the exporter or producer to an unaffiliated person.

The record evidence shows that the value added by the affiliated party to the subject merchandise after importation in the United States was significantly greater than the 65 percent threshold we use in determining whether the value added in the United States by an affiliated

³⁰ See sections 772(c)(2)(A) and 772(d)(1) of the Act.

³¹ See HYSCO QRA at pages A1 – A3.

party substantially exceeds the value of the subject merchandise.³² We then considered whether there were sales of identical subject merchandise or other subject merchandise sold in sufficient quantities by the exporter or producer to an unaffiliated person that could provide a reasonable basis of comparison. In addition to the sales to HAC that were further manufactured, HYSCO also had CEP sales of similar, but not identical, subject merchandise to unaffiliated customers in the United States in back-to-back transactions through another HYSCO affiliate in the United States, Hyundai HYSCO USA (HHU).³³

The appropriate methodology for determining the CEP for sales whose value has been substantially increased through U.S. further manufacturing generally must be made on a case-by-case basis.³⁴ In this instance, we find that there is a reasonable quantity of sales of subject merchandise to unaffiliated parties for comparison purposes.³⁵ Furthermore, there is no other reasonable methodology for determining CEP for HAC's further-manufactured sales. Therefore, we relied on HYSCO's other sales of similar merchandise to unaffiliated parties in the United States as the basis for calculating CEP for HYSCO's sales through HAC, which is consistent with the previous administrative reviews of CORE from Korea.³⁶

³² See 19 CFR 351.402(c)(2); HYSCO QRA at A9.

³³ See HYSCO QRA at A9; Letter from HYSCO to the Department entitled "Eighteenth Administrative Review of Corrosion-Resistant Carbon Steel Flat Products from Korea: Supplemental Sections A-C Questionnaire Response," dated August 7, 2012 (HYSCO 2SQR), at page 1 and exhibit 1.

³⁴ See the Department's Antidumping Questionnaires, Appendices I – V at page I9 and I10, available at <http://ia.ita.doc.gov/questionnaires/questionnaires-ad.html>.

³⁵ See Memorandum to the File, from Christopher Hargett, Sr. International Trade Compliance Analyst, through James Terpstra, Program Manager, AD/CVD Operation Office 3, entitled "Preliminary Results in the 18th Administrative Review on Corrosion-Resistant Carbon Steel Flat Products from Korea : Calculation Memorandum for Hyundai HYSCO," dated concurrently with this notice (HYSCO Calc Memo).

³⁶ See, e.g., CORE 17 Final Results; see also Certain Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Notice of Preliminary Results of the Sixteenth Antidumping Duty Administrative Review, 75 FR 55769 (September 14, 2010) (unchanged in the final results); Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of the Antidumping Duty Administrative Review, 74 FR

Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a)(1) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in usual commercial quantities and in the ordinary course of trade. We increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act.

Where appropriate, we deducted inland freight from the plant to distribution warehouse, warehouse expense, inland freight from the plant/warehouse to customer, and packing, pursuant to section 773(a)(6)(B) of the Act. Additionally, we made adjustments to NV, where appropriate, for credit and warranty expenses, in accordance with section 773(a)(6)(C)(iii) of the Act. Where appropriate, we added interest revenue, and applied billing adjustments to the gross unit price.

For purposes of calculating NV, section 771(16) of the Act defines “foreign like product” as merchandise which is either (1) identical or (2) similar to the merchandise sold in the United States. When no identical products are sold in the home market, the products which are most similar to the product sold in the United States are identified. When the NV is based on the prices of sales for the most similar products, an adjustment is made to the NV for differences in

46110, 46112 (September 8, 2009) (unchanged in the final results); Certain Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Notice of Preliminary Results of the Antidumping Duty Administrative Review, 73 FR 52267, 52270 (September 9, 2008) (unchanged in the final results).

cost attributable to differences in the actual physical characteristics between the products sold in the United States and in the home market.³⁷

Cost of Production

As stated above, in the most recently completed segments of this proceeding in which HYSCO and Dongbu participated, the Department found and disregarded sales that failed the cost test for each of these companies. Therefore, for this review, the Department has reasonable grounds to believe or suspect that sales of the foreign like products under consideration for the determination of NV may have been made at prices below the COP as provided by section 773(b)(2)(A)(ii) of the Act. Pursuant to section 773(b)(1) of the Act, the Department conducted a COP investigation of sales in the home market by HYSCO and Dongbu.

A. Calculation of Cost of Production

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for SG&A expenses and packing, in accordance with section 773(b)(3) of the Act. Except as noted below, the Department relied on the COP data submitted by HYSCO and Dongbu in their supplemental section D questionnaire responses.

HYSCO provided information showing that it purchased substrate (*i.e.*, hot-rolled coil) from affiliated parties. The substrate is a major input into production of the merchandise-under-consideration, and, therefore, we have applied the major input rule to value such purchases. As a result, we adjusted HYSCO's substrate costs pursuant to section 773(f)(3)

³⁷ See 19 CFR 351.411 and section 773(a)(6)(C)(ii) of the Act.

of the Act. In addition, for the preliminary results we used the cost of manufacturing adjusted to reflect the differences in temper rolling costs.³⁸

Based on our review of the record evidence, neither Dongbu nor HYSCO appeared to experience significant changes in the cost of manufacturing during the POR.³⁹ Therefore, we followed our normal methodology of calculating POR weighted-average COP.

B. Test of Comparison Market Sales Prices

As required under section 773(b)(2) of the Act, we compared the POR weighted-average COP to the per-unit price of the home market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net home market prices for the below cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses, and packing expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we disregarded no below-cost sales of that product because we determined that the below-cost sales were not made in “substantial

³⁸ See Memorandum from Ernest Z. Gziryan, Senior Accountant, through Theresa C. Deeley, Lead Accountant, to Neal M. Halper, Director, Office of Accounting, entitled “Antidumping Duty Administrative Review of Corrosion-Resistant Carbon Steel Flat Products from Korea: Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Hyundai HYSCO,” dated concurrently with this notice (HYSCO Cost Calculation Memo).

³⁹ See Letter from HYSCO to the Department entitled “Eighteenth Administrative Review of Corrosion-Resistant Carbon Steel Flat Products from Korea: Response of Hyundai HYSCO to Section D of the Department’s October 26, 2012, Questionnaire,” dated January 13, 2012, at exhibit D – 3.

quantities.” Where 20 percent or more of the respondent’s home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in “substantial quantities,” in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the weighted-average COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

As a result of our analysis for these preliminary results, for HYSCO and Dongbu, we have disregarded certain home markets sales priced below COP in accordance with section 773(b)(1) of the Act.⁴⁰

Calculation of NV Based on Home Market Prices

For those home market products for which there were sales at prices above the COP for HYSCO and Dongbu, we based NV on home market prices. In these preliminary results, we were able to match all U.S. sales to contemporaneous sales, made in the ordinary course of trade, of either an identical or a similar foreign like product, based on the matching characteristics identified in Appendix V of the original questionnaire. We calculated NV based on free on board (FOB) mill or delivered prices to unaffiliated customers, or prices to affiliated customers which were determined to be at arm’s length (see discussion below regarding these arm’s-length sales). We made deductions, where appropriate, from the starting price for billing adjustments, discounts, rebates, and inland freight. Additionally, we added interest revenue, where appropriate. In accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs.

⁴⁰ See HYSCO and Dongbu Cost Calculation Memos.

In accordance with section 773(a)(6)(C)(iii) of the Act, we adjusted for differences in the circumstances of sale. These circumstances included differences in imputed credit expenses and other direct selling expenses, such as the expense related to bank charges and factoring. Id. We also made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

Arm's-Length Sales

Dongbu and HYSCO reported that they made sales in the home market to affiliated parties. The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, i.e., sales at arm's-length.⁴¹

To test whether these sales were made at arm's length, we compared the reported home market prices of sales to affiliated and unaffiliated customers with applied billing adjustments, including interest revenue, net of all movement charges, direct selling expenses, discounts, rebates, and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties at the same level-of-trade for merchandise identical or most similar to the merchandise sold to the affiliated party, we considered the sales to be at arm's-length prices.⁴²

⁴¹ See 19 CFR 351.403(c).

⁴² See Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative: Ninth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy, 71 FR 45017, 45020 (August 8, 2006) (unchanged in Notice of Final Results of the Ninth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy, 72 FR 7011 (February 14, 2007)); 19 CFR 351.403(c).

Conversely, where we found that the sales to an affiliated party did not pass the arm's-length test, then all sales to that affiliated party have been excluded from the NV calculation.⁴³

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the home market at the same level of trade (LOT) as the EP or CEP sales, to the extent possible. When there were no sales at the same LOT, we compared U.S. sales to comparison market sales at the most similar LOT.

Pursuant to 19 CFR 351.412, to determine whether EP or CEP sales and NV sales were at different LOTs, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's-length) customers. If the home market sales are at a different LOT and the differences affect price comparability, as manifested in a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined, we will make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV LOT is at a more advanced stage of distribution than the CEP LOT, and the data available do not provide an appropriate basis to determine an LOT adjustment, we will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁴⁴

We did not make an LOT adjustment under 19 CFR 351.412(e) because there was only one home market LOT for each respondent and we were unable to identify a pattern of consistent

⁴³ See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade, 67 FR 69186, 69187 (November 15, 2002); also see Dongbu and HYSCO's preliminary results calculation memorandums, dated concurrently with this notice.

⁴⁴ See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731, 61732-33 (November 19, 1997).

price differences attributable to differences in LOTs.⁴⁵ NV sales for each company are at a more advanced LOT than the LOT for their respective U.S. CEP sales.⁴⁶ Thus, pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f), we are preliminarily granting a CEP offset for Dongbu and HYSCO.

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, see Dongbu and HYSCO's preliminary results calculation memorandum.

Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank.

Preliminary Results of the Review

As a result of this review, we preliminarily find that the following weighted-average dumping margins exist:

<u>Manufacturer/Exporter</u>	<u>Weighted-Average Dumping Margins</u>
Dongbu	0%
HYSCO	0%
Review-Specific Average Rate Applicable to: Dongkuk, Haewon, Hausys, LG Chem, and Union	0%

⁴⁵ See 19 CFR 351.412(d).

⁴⁶ See HYSCO Calc Memo at page 3, and Dongbu's Calc Memo at page 3.

Comment

The Department intends to disclose calculations performed within five days of the date of publication of this notice to the parties to this proceeding in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.⁴⁷ Rebuttal briefs are limited to issues raised in the case briefs and may be filed no later than five days after the time limit for filing the case briefs.⁴⁸ Parties submitting arguments in this proceeding are requested to submit with the argument: 1) a statement of the issue, 2) a brief summary of the argument, and 3) a table of authorities, in accordance with 19 CFR 351.309(d)(2). Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

An interested party may request a hearing within 30 days of publication of these preliminary results.⁴⁹ Any hearing, if requested, ordinarily will be held two days after the due date of the rebuttal briefs in accordance with 19 CFR 351.310(d)(1). The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of these preliminary results, unless extended.⁵⁰

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. If the weighted-average dumping margin for particular respondents is above

⁴⁷ See 19 CFR 351.309(c)(ii).

⁴⁸ See 19 CFR 351.309(d).

⁴⁹ See 19 CFR 351.310(c).

⁵⁰ See section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

de minimis in the final results of these reviews, we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value for those sales in accordance with 19 CFR 351.212(b)(1).⁵¹

The Department clarified its "automatic assessment" regulation on May 6, 2003.⁵² This clarification will apply to entries of subject merchandise during the period of review produced by companies selected for individual examination in these preliminary results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the country-specific all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.⁵³

For the companies which were not selected for individual review, we will calculate an assessment rate based on the weighted average of the cash deposit rates calculated for the companies selected for individual review.

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of CORE from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C)

⁵¹ In these preliminary results, the Department applied the assessment rate calculation method adopted in Final Modification for Reviews, i.e., on the basis of monthly average-to-average comparisons using only the transactions associated with that importer with offsets being provided for non-dumped comparisons.

⁵² See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

⁵³ See id.

of the Act: (1) The cash deposit rates for the companies listed above will be the rates established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, de minimis, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 17.70 percent, the all-others rate established in the LTFV.⁵⁴ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

⁵⁴ See Orders on Certain Steel from Korea.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

August 30, 2012 _____
Date

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